

**TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER IX: DEPARTMENT OF TRANSPORTATION**

**PART 660  
CONTRACT PROCUREMENT**

**ADOPTED AT 22 ILL. REG. 1060  
EFFECTIVE NOVEMBER 25, 1998**

---

SUBTITLE BTITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER IX: DEPARTMENT OF TRANSPORTATIONPART 660  
CONTRACT PROCUREMENT

## SUBPART A: GENERAL

Section	
660.10	Authority
660.20	Policy
660.30	Purpose and Policy Interpretations
660.40	Definitions

## SUBPART B: PUBLICATION OF PROCUREMENT INFORMATION

Section	
660.50	Transportation Bulletin
660.60	Subscription Fees
660.70	Direct Solicitation

## SUBPART C: METHODS OF PROCUREMENT

Section	
660.80	Competitive Sealed Bids
660.90	Competitive Sealed Proposals
660.100	Small Contracts
660.110	Sole Source Contracts
660.120	Emergency Contracts

## SUBPART D: COMPETITIVE SEALED BID PROCEDURES

Section	
660.130	General Conditions for Use
660.140	Invitations for Bids
660.150	Amendments to Invitations for Bids
660.160	Preparation of Bids

---

SUBTITLE B

660.170	Delivery of Bids
660.180	Change or Withdraw al of Bids
660.190	Combination Bids for Construction Contracts
660.200	Pre-Bid Conferences
660.210	Public Opening of Bids
660.220	Consideration of Bids
660.230	Mistakes
660.240	Aw ard After Bid Evaluation
660.250	Split and Multiple Aw ards
660.260	Time for Aw ard
660.270	Delay in Aw ard
660.280	Binding Contract
660.290	Requirement of Contract Bond for Construction Contracts
660.300	Execution of Contract
660.310	Publication of Contracts

## SUBPART E: COMPETITIVE SEALED PROPOSAL PROCEDURES

Section	
660.320	General Conditions for Use
660.330	Request for Proposals
660.340	Delivery of Proposals
660.350	Evaluation of Proposals
660.360	Discussions w ith Responsible Offerors
660.370	Aw ard
660.380	Publication of Contracts

## SUBPART F: PROTESTS

Section	
660.390	Application
660.400	Interested Party
660.410	Subject of the Protest
660.420	Filing of a Protest
660.430	Stay of Action during Protest
660.440	Decision

## SUBPART G: SPECIFICATIONS

Section	
---------	--

---

SUBTITLE B

660.450	Standard Specifications
660.460	Contract Documents
660.470	Specification Standards

## SUBPART H: SUSPENSION OF CONTRACTORS

Section	
660.480	Purpose
660.490	Definitions
660.500	Policy
660.510	General
660.520	Causes for Suspension
660.530	Interim Suspension
660.540	Voluntary Exclusion
660.550	Term of Suspension
660.560	Coverage
660.570	Other Agency Suspensions
660.580	Responsibility
660.590	Continuation of Executory Contracts
660.600	Exception Provision
660.610	Notice of Suspension
660.620	Response and Request for Hearing
660.630	Hearing Date and Hearing Officer
660.640	Answer
660.650	Form of Documents
660.660	Computation of Time
660.670	Appearances
660.680	Hearing Procedures
660.690	Determination

## SUBPART I: MISCELLANEOUS

Section	
660.700	Property Rights
660.710	Federal Requirements
660.720	Intergovernmental Agreements
660.730	No Waiver of Sovereign Immunity
660.740	Written Determinations
660.750	Severability

---

SUBTITLE B

AUTHORITY: Implementing, and authorized by Section 5-25 of, the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 11602, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 21060, effective November 25, 1998.

---

SUBTITLE B

## SUBPART A: GENERAL

## Section 660.10 Authority

- a) The Secretary of Transportation is established in the Illinois Procurement Code (the Code) [30 ILCS 500] as the Chief Procurement Officer for all construction and construction-related services contract procurement, for procurement related to the operation of any facility under the jurisdiction of the Illinois Department of Transportation (the Department), and for the procurement of contracts necessary to the provision of any service or activity for which the Department is charged by law. The Secretary has the authority to appoint State Purchasing Officers to carry out the responsibility established in the Illinois Procurement Code. (See Section 1-15.15 of the Code.)
- b) With respect to construction and construction-related services, the Department is charged by law with the responsibility for the construction, improvement, maintenance and operation of the State Highway System; the rehabilitation, improvement and construction of rail facilities; and the construction, improvement and maintenance of air navigation facilities either on behalf of the State or as agent for units of local government empowered to operate air navigation facilities. In addition, the Department may let contracts for highway construction on highway systems under the jurisdiction of local highway authorities as a condition of the receipt of federal-aid funds or as otherwise provided by law.
- c) Procurements undertaken in accordance with the authority of the Department and subject to the Code will be accomplished in accordance with this Part or the standard procurement rules adopted by the Department of Central Management Services as indicated in the notice of the relevant procurement. All other procurements subject to the Code and committed to the authority of other Chief Procurement Officers therein will be conducted in accordance with the rules adopted by those Chief Procurement Officers. Procurements subject to the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act will be conducted, in all aspects and procedures, including but not limited to prequalification, publication, evaluation, selection, contract formation and amendment, and performance evaluation, in accordance with rules adopted by the Department pursuant to that Act.

---

SUBTITLE B

## Section 660.20 Policy

All Department contract procurements will be accomplished in the most economic and expeditious manner consistent with the principles and practices established in the Code. It is the policy of the Secretary of Transportation, as Chief Procurement Officer for the Department, that all activities of appointed State Purchasing Officers and other designees related to the procurement process maximize the value of the expenditure of public funds in procuring contracts, and that those appointed and designated act in a manner that maintains public trust in the integrity of the process.

---

SUBTITLE B

## Section 660.30 Purpose and Policy Interpretations

This Part is promulgated to guide the Department in implementing the procurement practices applicable to contract procurement established in the Code. All policy and operational interpretations will be made in a manner so as to secure the commercial needs of the State, to protect, safeguard and maintain the integrity of the procurement process, and to maximize the value of the expenditure of public funds. This Part is intended and designed to achieve practical, standard procedural uniformity for procurement undertaken by the Department.



---

SUBTITLE B

---

## Section 660.40 Definitions

As used throughout this Part, terms defined in the Illinois Procurement Code have the same meaning as in the Code and as further defined below. Each term listed in this Section has the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

“Bid” - An offer made by a bidder in response to a contract item advertised in an Invitation for Bids.

“Bidder” - Any person or entity that in fact submits a bid.

“Change Order” - A formal, written directive or agreement that amends a contract in order to address contingencies affecting the performance and completion of the contract, including but not limited to such matters as extra work, increases or decreases in quantities, additions or alterations to plans, special provisions or specifications, and adjustments or alterations specifically provided for in the contract.

“Code” - The Illinois Procurement Code [30 ILCS 500].

“Contract” - A written agreement between the Department and the contractor comprising such documents as set forth in each individual agreement, including change orders, and setting forth the obligations of the parties for the performance of the contract.

“Day” - A calendar day.

“Department” - The Illinois Department of Transportation.

“Germane” - In relationship to the modification, alteration or amendment of the terms of a contract by change order, the term “germane” means a change that is related to the original terms of the contract but that is not so substantial a departure from the original as to constitute a new contract.

“Proposal” - A response to a Request for Proposals.

“Responsible” - The capability, integrity and reliability of a bidder, offeror or contractor, in all respects that will assure good faith performance, to undertake and complete fully the requirements of a contract.

---

SUBTITLE B

“Responsive” - In the context of bidding procedures, the compliance in all meaningful, material respects with the Invitation for Bids.

“Special Provisions” - Additions and revisions to the Standard and Supplemental Specifications applicable to an individual contract.

“Specifications” - The body of directions, provisions, and requirements for performance of prescribed work. Specifications includes and may be referred to as the Standard Specifications, which is a Department publication of specifications approved for general application and repetitive use.

“Supplemental Specifications” - Additions and revisions to the Department's Standard Specifications.

---

SUBTITLE B

## SUBPART B: PUBLICATION OF PROCUREMENT INFORMATION

## Section 660.50 Transportation Bulletin

- a) The Department is responsible under the Code for publication of its volume of the Illinois Procurement Bulletin. The Department volume is entitled the "Transportation Bulletin." (See Section 15-1 of the Code.)
- b) The Transportation Bulletin is the published source for all Department procurement actions, notices and other information relevant to Department procurement activities undertaken pursuant to this Part.
- c) The Transportation Bulletin may be published in subparts designed to enhance and focus the ability of users to find information relevant to the user's interest.
- d) The Transportation Bulletin or any subpart thereof will be published or updated at least once each month but may be updated more frequently.

---

SUBTITLE B

## Section 660.60 Subscription Fees

The Department reserves the right to charge subscription fees in accordance with Section 15-15 of the Code. The Transportation Bulletin will be made available without charge to prequalified bidders and offerors, and to public libraries within Illinois expressing interest. Access to detailed information contained in the Transportation Bulletin or any subpart may require additional fees.

---

SUBTITLE B

## Section 660.70 Direct Solicitation

Publication of the Transportation Bulletin or any subpart shall not prohibit direct solicitation in addition to publication in order to enhance competition or interest of prospective contractors in particular procurements.

---

SUBTITLE B

SUBPART C: METHODS OF PROCUREMENT

Section 660.80 Competitive Sealed Bids

Except for those circumstances and methods described in Sections 660.90, 660.100, 660.110 and 660.120, all Department contracts will be procured by competitive sealed bidding in accordance with Section 20-10 of the Code and this Part. (See Section 20-5 of the Code.)

---

SUBTITLE B

---

## Section 660.90 Competitive Sealed Proposals

- a) Department contracts may be procured by competitive sealed proposals when the Department determines that competitive sealed bidding is either not practicable or not advantageous to the State. (See Section 20-15(a) of the Code.)
- b) The determination to use competitive sealed proposals will be made in writing on either a contract-by-contract or a category of contracts basis.
  - 1) “Practicable” Distinguished From “Advantageous.” As used in this Subpart, the term “practicable” means that which may be accomplished or put into practical application, and “advantageous” means an assessment of what is in the State’s best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State’s best interest. Before a contract may be entered into by competitive sealed proposals, the Department will determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.
  - 2) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals may be used. The competitive sealed proposal method differs from competitive sealed bidding in two principal ways. First, it permits discussions with competing offerors and changes in their proposals, including price. Second, it allows comparative evaluations to be made when selecting among acceptable proposals for award of the contract. Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing values other than price alone, or where prior procurement experience indicates that competitive sealed proposals may result in more beneficial contracts for the State, use of competitive sealed proposals is the appropriate procurement method.
- c) Contracts for professional and artistic services governed by the Competitive Selection Procedures adopted by the Illinois Department of Central Management Services are subject to those procedures for procurement.

---

SUBTITLE B

---

## Section 660.100 Small Contracts

- a) Individual contracts for supplies or services from any one source that do not exceed \$10,000 may be made without notice, competition or use of any other method of procurement prescribed in the Code or this Part. (See Section 20-20(a) of the Code.) Contracts for professional and artistic services that do not exceed \$20,000 for a nonrenewable term of not more than one year will be procured in accordance with this Section.
- b) Construction contracts, construction supply contracts, construction-related service contracts and change orders made thereto that do not exceed \$30,000 may be procured without notice, competition or use of any other method of procurement prescribed in the Code or this Part. (See Section 20-20 of the Code.)
- c) Section 30-35 of the Code provides that a construction contract change order may cause the obligation or expenditure of funds in excess of the original contract price provided that the subject of the change order is germane to the original contract. Section 30-35 of the Code further establishes the manner in which the amount of additional expenditure or obligation will be determined and authorized by the Department. The Department will approve construction contract change orders authorizing the obligation or expenditure of additional funds without supplemental procurement procedures, in accordance with the following requirements and thresholds.
  - 1) A construction contract change order that is germane and that causes the obligation or expenditure in excess of the amounts in Section 30-35(b) of the Code or of more than \$30,000 in excess of the contract price, whichever is less, will not be authorized without supplemental procurement procedures unless the scope of the change order is approved as provided in Section 30-35 of the Code.
  - 2) Determination of germaneness and the amount of additional expenditure or obligation thresholds will be determined in accordance with this Part and Section 30-35 of the Code.
  - 3) Prior written approval or disapproval will be made by the Department in accordance with the threshold amounts established in Section 30-35 of the Code, and in all cases if the contemplated construction contract change order will cause an expenditure or obligation of funds of more than \$30,000 in excess of the contract price even though the threshold levels provided in Section 30-35 of the Code do not require such action. The written approval



---

SUBTITLE B

will state the reasons for the additional obligation or expenditure and the basis for the germaneness determination.

- 4) For purposes of determining the scope of the change order and the value thereof that is subject to the requirements of this Section, the Department will consider the total net value of all added and deducted work functions related to the object of the change order and the work of the contract to be affected.
  - 5) Notice of approved construction contract change orders in excess of \$30,000 will be published in the Transportation Bulletin.
- d) Estimated needs shall not be divided in any manner to avoid the use of an established method of procurement. (See Section 20-20(a) of the Code.)

---

SUBTITLE B

---

## Section 660.110 Sole Source Contracts

- a) A contract may be procured from a single source contractor without competition or use of any other method of procurement prescribed in the Code or this Part when the single source contractor is the only economically feasible source capable of providing the services, including professional and artistic services, contemplated or the material or product to be supplied. (See Section 20-25 of the Code.)
- b) A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. Examples of circumstances that could necessitate sole source procurement include but are not limited to:
  - 1) when the compatibility of equipment, accessories, replacement parts, or service is a primary consideration;
  - 2) when trial use, testing or the development of new technology is the object of the procurement;
  - 3) when a sole supplier's item is to be procured for commercial resale;
  - 4) when utility services are to be procured;
  - 5) when the surety providing a performance bond tenders a completion contractor, acceptable to the Department, to complete a defaulted contract;
  - 6) when the item is copyrighted or patented and the item is not available except from the holder of the copyright or patent or service area licensee; and
  - 7) when utility, railroad or other private property is to be relocated or otherwise adjusted by the owner to accommodate a Department project.
- c) Change Orders to existing contracts germane to the original contract that are necessary or desirable to complete the project, and that can be best accomplished by the contract holder, may be procured under this Section.
- d) The Department shall publish notice of intent to contract on a sole source basis in the Transportation Bulletin at least 14 days prior to execution of the contract. (See Section 20-25 of the Code.)

---

SUBTITLE B

## Section 660.120 Emergency Contracts

- a) A contract may be procured without the use of any other method of procurement prescribed in the Code or this Part when there exists a threat to public health or safety, or when an immediate contract is needed to repair State property in order to prevent or minimize further loss or damage to State property, or to prevent or minimize serious disruption in State services, including but not limited to completion of a defaulted contract, or to ensure the integrity of State records. (See Section 20-30(a) of the Code.)
- b) For purposes of this Section, State property includes all property both real and personal. State records includes all records regardless of the form of storage. State services include, but are not limited to, all activities committed by law to the jurisdiction or responsibility of the Department, whether provided directly or indirectly by means of contract or intergovernmental agreement. Change Orders to existing contracts that are necessary to complete the contract, and that can best be accomplished by the contract holder, may be procured under this Section.
- c) The Department will employ such competition as is practicable under the emergency circumstances to abate the emergency situation, including the use of existing contracts.
- d) Section 20-30(a) of the Code requires a written description of the basis for the emergency and reasons for the selection of the particular contractor to be included in the contract file. Section 20-30 of the Code further requires an affidavit to be filed with the Auditor General setting forth the amount expended, the name of the contractor and the basis for the emergency. For purposes of Department emergency procurements, the Code required affidavits will serve as the Code required written descriptions retained in the contract file, and for purposes of publication notice as required by the Code.

---

SUBTITLE B

SUBPART D: COMPETITIVE SEALED BID PROCEDURES

Section 660.130 General Conditions for Use

The procedures set forth in this Subpart D will be used for all contracts procured by the Department through the use of competitive sealed bids.

---

SUBTITLE B

---

## Section 660.140 Invitations for Bids

- a) The process for procuring a contract by competitive sealed bids begins with the issuance of an Invitation for Bids by publication in the Transportation Bulletin not less than 14 days prior to the date set for the opening of bids. (See Section 20-10(c) of the Code.)
- b) The Invitation for Bids may include more than one contract item and will include the following minimum requirements.
  - 1) Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance, and any other special information. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
  - 2) A purchase description for each contract item, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description.
  - 3) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
  - 4) The Invitation for Bids may provide a form that will specify or organize the manner of price submission and that the bidder shall sign and submit along with all other necessary submissions.
- c) For procurements of construction, the Invitation for Bids also will include information and instructions for obtaining all contract specifications, special provisions, plans for the construction contract work and bid forms for individual contract items. Bidders for construction contracts are required to have Authorization to Bid issued in accordance with the Department's rules for Prequalification of Contractors and Issuance of Plans and Proposals found at 44 Ill. Adm. Code 650.
- d) In addition, each construction contract item will include but not be limited to the following minimum information and requirements enforceable in accordance with State or federal law through the terms and conditions of the contract.
  - 1) Information concerning the location, limits and description of the construction work and the scope thereof contemplated by the contract.

---

SUBTITLE B

- 2) An estimate of the various quantities of the type of work to be performed and the materials to be furnished in the performance of the contract.
- 3) The manner of bid price submission for a construction contract may include lump sum, a schedule of unit prices or a combination thereof based upon the estimate of quantities provided in the contract.
- 4) The manner of making changes in the quantities and such alterations in the work as necessary to satisfactorily complete the contract.
- 5) Provisions to assure that all work is performed in accordance with the contract requirements including but not limited to the following methods.
  - A) Limitations on subcontracting;
  - B) Qualifications and requirements for contractor supervisory personnel;
  - C) Engineering services to be provided by the contractor;
  - D) Department provided resident personnel and inspectors;
  - E) Performance and payment bond requirements;
  - F) Inspection and acceptance of the work requirements;
  - G) Restrictions, sources and quality requirements for all materials and testing or inspection procedures;
  - H) The method of determination and documentation of pay quantities and a record of the materials, supplies and labor furnished in performance of the contract;
  - I) The manner of determining satisfactory prosecution of the work and progress to completion of the work in accordance with the time for completion set out in the contract including, when incorporated into the contract, provisions for liquidated damages and incentive payments for early completion; and
  - J) Provisions for the suspension of work and the termination of the contract.

---

SUBTITLE B

- 6) All labor, employment and wage requirements applicable to the contract, and the manner of payroll recording, submission and inspection. (See the Prevailing Wage Act, 820 ILCS 130.)
- 7) All procurement preferences made applicable to the contract. (See Article 45 of the Code.)
- 8) The manner of measuring the work for payment based upon the estimated quantities provided or upon the actual quantities of material and work measured and completed including but not limited to progress payments as the work proceeds, and final payment.

---

SUBTITLE B

## Section 660.150 Amendments to Invitations for Bids

Invitations for Bids may be supplemented, by publication in the Transportation Bulletin, with additional contract items, amended instructions, information, or extensions of any times stated in the invitation. Contract items may be subject to amendment. Amendment to contract items may require that the bidder acknowledge receipt of all amendments issued. Each amendment will reference the contract item it amends. Amendments will be sent to all prospective bidders known to the Department at the time of the amendment.



---

SUBTITLE B

---

## Section 660.160 Preparation of Bids

- a) Bidders shall follow all instructions included in the Invitation for Bids and bid forms for submission of bids on the contract item for which bids are sought.
- b) Bidders shall submit their bids in the manner required by the Invitation for Bids.
- c) Unless otherwise provided, all prices shall be given in figures. Separate prices shall be entered for all pricing items indicated in the bid form. When alternate bids are sought for a particular contract item, the alternates will be identified in the bid form. A bid on every alternate is not required unless otherwise specifically provided. When required by the Invitation for Bids, the bidder shall indicate a unit price for each of the separate price items called for in the bid form. The bidder may be required to show the products of the respective quantities and unit prices in a space provided for that purpose, and a gross sum shown in the place indicated in the bid form as the summation of those products. All writing shall be in a permanent, nonerasable form, except the signature of the bidder, which shall be written in permanent, nonerasable ink.
- d) When required by the Invitation for Bids, each bid shall be accompanied by a bid bond in the form provided by the Department with the bid form package. The bid bond shall be made and tendered by a surety acceptable to the Department in the amount stated in the Invitation for Bids. The Department will accept a bank cashier's check or a certified check in lieu of a surety bid bond.

---

SUBTITLE B

## Section 660.170 Delivery of Bids

Bids shall be sealed and submitted in the manner specified or allowed by the Invitation for Bids. When sent by mail, the sealed bid shall be addressed to the Department at the address and in care of the official in whose office the bids are to be received. All bids shall be delivered and received by the Department prior to the time and at the place specified in the Invitation for Bids. The date and time of receipt will be recorded. Bids will remain sealed and will be stored in a secure place until the date and time established for bid opening. Bids received after the time specified will be returned to the bidder unopened.

---

SUBTITLE B

## Section 660.180 Change or Withdrawal of Bids

A bidder may change or withdraw a bid if written or in-person notice of the change or withdrawal is received by the Department before the time specified for submission of bids. No change or withdrawal is allowed after bid opening except as provided in Section 660.230 of this Part. Changes must be initialed in ink by the bidder. (See Section 20-10(f) of the Code.)

---

SUBTITLE B

---

## Section 660.190 Combination Bids for Construction Contracts

- a) A combination bid is a total bid received on two or more contract items. No combination bids other than those specifically established by the Department will be considered. Separate bid forms will be issued for each contract item in the combination. Bids may be submitted on the combination as well as on the separate contract items of the combination. The Department reserves the right to make awards on combination bids or separate contract item bids.
- b) If a combination bid is submitted on two or more contract items, separate bids on each individual contract shall also be submitted, and unless separate bids are so submitted the combination bid will not be considered. If the bidder intends to submit a combination bid, the bidder shall state, in the place provided in the bid form, the amount of the combination bid for the entire combination.
- c) If a combination bid is submitted on any stipulated combination, and errors are found to exist in computing the gross sum bid on any one or more of the individual bids, corrections will be made by the Department and the amount of the combination bid will be corrected so that it will be in the same proportion to the sum of the corrected gross sum bid as the combination bid submitted was to the sum of the gross sum bid submitted.
- d) The following provisions govern combination bidding:
  - 1) When a combination bid is submitted and awarded for two or more contract items, the combination bid price will be prorated against each contract item in proportion to the bid price submitted for each individual contract item.
  - 2) Separate contracts will be executed for each individual contract item included in the combination.
  - 3) The completion time for all contracts awarded on a combination bid will be the latest completion time designated in any of the contracts included in the combination, unless otherwise provided in the contracts.

---

SUBTITLE B

## Section 660.200 Pre-Bid Conferences

Pre-bid conferences may be conducted to enhance understanding of the procurement requirements. They will be announced in the Transportation Bulletin. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Only the written minutes of the conference shall be binding. Nothing stated in the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Minutes of the conference will be available upon request to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the minutes shall be supplied to attendees only.

---

SUBTITLE B

## Section 660.210 Public Opening of Bids

Bids will be opened and read publicly at the time and place specified in the Invitation for Bids. (See Section 20-10(d) of the Code.) The name of each bidder and the price term of each bid will be read aloud and recorded in a tabulation of bids for each contract item advertised. After execution of the contract, the tabulation of bids in the total amount and unit price items, if applicable, of all bidders will be available for public inspection. (See Section 15-25(b) of the Code.)

---

SUBTITLE B

---

## Section 660.220 Consideration of Bids

- a) After the bids are opened, read and recorded, the bids will be reviewed for responsiveness to the Invitation for Bids and conformity with all requirements prescribed in this Part. If unit prices are required, the bids will be compared on the basis of the summation of the products of the quantities shown in the bid schedule by the unit bid prices.
- b) The right is reserved by the Department to reject any or all bids, to waive minor informalities or technicalities, to advertise for new bids, or to request confirmation or clarification from any bidder regarding information contained in a bid.
- c) Reasons for rejection of all bids include but are not limited to:
  - 1) The object of the contract being procured is no longer required.
  - 2) The contract provisions require amendment.
  - 3) The solicitation did not provide for consideration of all factors of significance to the Department.
  - 4) The bid prices exceed available funds or the bid prices exceed the anticipated estimate of costs to the extent that, in the judgment of the Department, prices are unreasonable.
  - 5) Evidence of collusion among bidders.
  - 6) Actions or events beyond the control of the Department, such as strikes, acts of God, material shortages, acts of the public enemy or litigation, would have an adverse effect on the completion of the anticipated contract.
- d) Reasons for rejection of any individual bids include but are not limited to:
  - 1) More than one bid for the same contract item from a bidder under the same or different names.
  - 2) Evidence of collusion among bidders.
  - 3) Unbalanced bids in which the bid prices for some items are, in the judgment of the Department, out of proportion to the bid prices for other items.

---

SUBTITLE B

- 4) If the bid does not contain a unit price for each pay item listed, except in the case of authorized alternate pay items or lump sum pay items.
- 5) If the bid form is other than that furnished or authorized by the Department, or if the form is altered or any part thereof is detached.
- 6) If there are omissions, erasures, alterations, unauthorized additions, conditional or alternate bids, or irregularities of any kind that may tend, in the judgment of the Department, to make the bid incomplete, indefinite, or ambiguous as to its meaning.
- 7) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
- 8) If the bid is not accompanied by the proper bid bond or substitute guaranty.
- 9) If the bid is prepared in any manner other than as indicated in this Part or the Invitation for Bids making the bid not responsive.



---

SUBTITLE B

## Section 660.230 Mistakes

- a) If a bidder claims a mistake in its bid, the bid may be withdrawn in accordance with this Section without payment of damages to the Department as provided in the terms of a bid bond or other bid security, provided the bidder claiming the mistake demonstrates to the Department with competent and reliable evidence:
  - 1) that the claimed mistake is related to a material feature of the contract;
  - 2) that the mistake would have serious, material consequences to the bidder such that enforcement of a contract would be unconscionable;
  - 3) that the mistake occurred notwithstanding the exercise of reasonable care by the bidder; and
  - 4) that the bidder has raised the claim of a mistake without delay in order to prevent the Department from altering its position in such a manner that loss to the State would occur.
- b) The Department reserves the right to correct obvious, apparent errors in bids. A bid may not be withdrawn if a mistake is apparent and the intended correct bid is clearly evident on the face of the bid. Examples of mistakes that may be clearly evident on the face of the bid include but are not limited to typographical errors, errors in extending unit prices, transposition errors and arithmetical errors.
- c) Mistakes claimed after execution of the contract will not be corrected.

---

SUBTITLE B

---

## Section 660.240 Award After Bid Evaluation

- a) Unless all bids are rejected, an award notification will be made to the lowest responsible bidder whose bid is responsive to and conforms with the requirements and criteria of the invitation. Tie bids will be decided by lot. All responsibility, responsiveness, and price factors are considered so as to select the bid most advantageous to the State. An individual contract item advertised in an Invitation for Bids may state other, additional award and evaluation criteria that will be capable of objective consideration for award. (See Section 20-10(g) of the Code.)
- b) Responsibility of bidders for construction contracts is determined in accordance with the Department's rules for Prequalification of Contractors and Issuance of Plans and Proposals found at 44 Ill. Adm. Code 650.
- c) For nonconstruction contracts, the responsibility of bidders will be determined based upon the following factors unless some other or additional factors or prequalification procedures are stated in the Invitation for Bids.
  - 1) The bidder shall possess the appropriate financial, material, equipment, facility and personnel resources and expertise necessary to meet all contractual obligations.
  - 2) The bidder shall have a satisfactory record of performance, including but not limited to a sound record of integrity and business ethics.
  - 3) The bidder shall be under no legal disability of any kind to contract with the State.
  - 4) The bidder shall have submitted all information requested by the Invitation for Bids concerning responsibility.

---

SUBTITLE B

## Section 660.250 Split and Multiple Awards

- a) The Department may advertise a contract for a potential split award of a definite quantity requirement between two or more bidders. The Invitation for Bids will advise of the reservation of split awards and the basis for dividing the award.
- b) The Department may advertise a contract for multiple award of an indefinite quantity when two or more contractors are necessary for adequately meeting the Department's needs. The Invitation for Bids will advise of the reservation of multiple awards.

---

SUBTITLE B

Section 660.260 Time for Award

Unless the Invitation for Bids specifies a different time for bid acceptance, a notification of award will be made in writing dated within 45 calendar days after the opening of bids.

---

SUBTITLE B

## Section 660.270 Delay in Award

Should circumstances be encountered after bid opening that may delay award beyond the 45 day or other advertised period, the responsive bidders may be requested to extend the bid acceptance period.

---

SUBTITLE B

## Section 660.280 Binding Contract

- a) Once an award has been made, the bidder is bound to perform according to the terms and conditions of the contract, the Invitation for Bids and this Part.
- b) An approved contract executed by the Department is required before the State is bound. An award may be canceled any time by the Department prior to execution in order to protect the public interest and integrity of the bidding process or for any other reason if, in the judgment of the Department, the best interests of the State will be promoted.

---

SUBTITLE B

## Section 660.290 Requirement of Contract Bond for Construction Contracts

The successful bidder awarded a construction contract shall furnish the Department a performance and payment bond with good and sufficient sureties in the full amount of the contract as the penal sum. (See the Public Construction Bond Act [30 ILCS 550].) The surety shall be acceptable to the Department, shall waive notice of any changes and extensions of time, and shall submit its bond on the form furnished by the Department. Performance security for other contracts shall be as stated in the Invitation and contract.

---

SUBTITLE B

---

## Section 660.300 Execution of Contract

- a) The bid form submitted by the bidders may be in such a form that the signature of the bidder on the form is also the signature of the bidder for purposes of contract execution. In such circumstances, the Department will, after acceptance and approval of the bid for contracting purposes, execute the contract and return a copy to the bidder.
- b) If the contract as bid requires additional execution by the bidder, the contract shall be executed by the successful bidder and returned, together with any required contract bond, within 15 days after the contract has been mailed to the bidder. Failure of the successful bidder to execute the contract and file acceptable bonds within 15 days after the contract has been mailed to the bidder is cause for the cancellation of the award and the forfeiture of the proposal guaranty. If the contract is not executed by the Department within 15 days following receipt from the bidder of the properly executed contract and bond, the bidder shall have the right to withdraw the bid without penalty.



---

SUBTITLE B

Section 660.310 Publication of Contracts

Notice of contracts entered into by the Department pursuant to this Subpart D will be published in the Transportation Bulletin.

---

SUBTITLE B

## SUBPART E: COMPETITIVE SEALED PROPOSAL PROCEDURES

## Section 660.320 General Conditions for Use

The procedures set forth in this Subpart E will be used for all contracts procured by the Department by competitive sealed proposals supported by a written determination that competitive sealed bidding is not practicable or not advantageous. (See Section 20-15(a) of the Code.)

---

SUBTITLE B

---

## Section 660.330 Request for Proposals

- a) The process for procuring a contract by competitive sealed proposals begins with the issuance of a Request for Proposals by publication in the Transportation Bulletin not less than 14 days before the date set in the request for the opening of proposals. (See Section 20-15(b) and (c) of the Code.)
- b) The Request for Proposals will include the following elements that may be adapted to accomplish the objectives of the Department.
  - 1) A general description of the type of service needed.
  - 2) A general description of the nature of the work and its relationship to the objectives of the Department.
  - 3) The anticipated starting date and duration of the contract.
  - 4) A general description of the final product to be produced or service to be rendered.
  - 5) A detailed description of the work of the project that also discloses a summary of any preliminary work that has been done, and any special conditions affecting the performance of the work, including but not limited to location, licenses, skills required and materials to be supplied. In addition, a timetable for performing the work, including reporting requirements, may be included or instructions for the offerors to provide an acceptable timetable may be specified.
  - 6) A description of the required format for a proposal, including some or all of, but not limited to, the following elements:
    - A) Technical Proposal: A document describing in detail how the work will be accomplished, including any services that would be provided through a subcontract.
    - B) Staffing: A summary of the qualifications of the individuals who would be assigned to the project, a general account of experience in the field of work, and a list of current and anticipated contracts that could require the involvement of the project staff during the term of the Department's contract.
    - C) Cost Estimate: When the project is federally-funded, a detailed estimate of direct and indirect costs of accomplishing the work.

---

SUBTITLE B

When the project is not federally-funded, the Request for Proposal will indicate when and how price will be submitted.

- D) Samples of Previous Work: Copies of reports, manuals, plans, etc., that are closely related to the type of services needed.
  - E) A statement of any additional requirements.
- 7) A description of the evaluation factors that will be used to evaluate and rank the proposals, and the relative importance of price to the evaluation factors. (See Section 20-15(e) of the Code.)
  - 8) A name and phone number of the responsible Department office, and the official mailing address, date and time for submission of the proposal and supporting documents.
  - 9) For any federally-funded contract that is expected to exceed \$50,000 in cost, a notification that fiscal information may be required prior to an award detailing the offeror's accounting system, payroll burden, fringe expenses, and general and administration overhead expense percentage rating for purposes of a pre-contract audit.
  - 10) A statement, for nonfederally-funded contracts, of when and how price will be submitted.
  - 11) A statement that discussions may be conducted with offerors that submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted and evaluated, and that an award may be made and contract executed without discussions.

---

SUBTITLE B

---

## Section 660.340 Delivery of Proposals

- a) Proposals shall be sealed and submitted in the manner specified or allowed by the Request for Proposals. When sent by mail, the sealed proposal shall be addressed to the official mailing address specified in the request. All proposals shall be delivered and received by the Department prior to the time and at the official address specified in the Request for Proposals. Proposals received after the time specified will be returned to the offeror unopened. The date and time of receipt will be recorded. Proposals will be held in a secure place until the established due date. After the date and time established for receipt of proposals, a register of proposals will be prepared that will include for all proposals the name of each offeror and a description sufficient to identify the supply or service item offered. The register of proposals is open to public inspection after award of the contract. Proposals will be maintained in a confidential manner during the period prior to execution of a contract. (See Section 20-15(f) of the Code.)
- b) Proposals will be opened publicly in the presence of at least one witness at the time and place indicated, but contents of individual proposals will not be disclosed.

---

SUBTITLE B

---

## Section 660.350 Evaluation of Proposals

- a) The evaluation is based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required. Factors not specified in the Request for Proposals will not be considered. For purposes of conducting discussions with responsible offerors and for revision of proposals, proposals may be initially classified as:

- 1) acceptable;
- 2) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- 3) unacceptable.

Offerors whose proposals are unacceptable will be so notified.

- b) Except for federally-funded contracts, proposals will be evaluated on all particulars independent of price.
- c) For federally-funded contracts, a pre-discussion audit may be performed to provide the necessary data to assure that the offeror has an acceptable accounting system, adequate and proper justification of the various rates charged to perform the work and is aware of federal cost eligibility and documentation requirements. Pre-discussion audits and the resultant audit opinions are required for all contracts expected to exceed \$250,000 and for all contracts of less than \$250,000 where:
- 1) there is insufficient knowledge of the offeror's accounting system;
  - 2) there is previous unfavorable experience regarding the reliability of the offeror's accounting system; or
  - 3) the contract involves the procurement of new equipment or supplies for which cost experience is lacking.

Pre-discussion audits may be waived when sufficient audited data is available to permit reasonable comparisons with the cost proposal.

---

SUBTITLE B

## Section 660.360 Discussions with Responsible Offerors

- a) “Offerors” Defined. For purposes of this Section, the term “offerors” includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term does not include businesses who submitted unacceptable proposals.
- b) Purposes of Discussions. Discussions may be held to promote understanding of the Department’s requirements and the offerors’ proposals, and to facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals. (See Section 20-15(f) of the Code.)
- c) Conduct of Discussions. Offerors will be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of or change in the Request for Proposals, the Request shall be amended to incorporate such clarification or change and all offerors advised accordingly. Revealing one offeror’s price to another and disclosure of any information derived from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror. (See Section 20-15(f) of the Code.)
- d) Best and Final Offers. The Department may establish a common date and time for the submission of best and final offers. The Department may conduct additional discussions or change the State’s requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror’s immediately previous offer will be construed as its best and final offer.

---

SUBTITLE B

## Section 660.370 Award

- a) An award will be made pursuant to a written determination, retained in the contract file, showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals, and taking into consideration price. (See Section 20-15(g) of the Code.)
- b) Nothing shall compel the award of a contract. Contract execution will be as specified in the Request for Proposals. A solicitation may be canceled at any time when such action is determined in the sole judgment of the Department to be in the best interest of the State.



---

SUBTITLE B

Section 660.380 Publication of Contracts

Notice of contracts entered into by the Department pursuant to this Subpart E will be published in the Transportation Bulletin.

SUBTITLE B

SUBPART F: PROTESTS

Section 660.390 Application

The procedures of this Subpart F will govern the resolution of protests received by the Department from an interested party concerning a contract solicitation.

---

SUBTITLE B

## Section 660.400 Interested Party

In order to be considered an interested party, the protester must be or have been an actual bidder or offeror who demonstrates compliance in all respects with this Part and the terms of the subject Invitation for Bids or Request for Proposals.

---

SUBTITLE B

## Section 660.410 Subject of the Protest

- a) A protest may be filed regarding any phase of the solicitation process for a particular contract.
- b) The subject of the protest shall concern fraud, corruption or illegal acts undermining the objectives and integrity of the procurement process.
- c) Protest procedures of this Subpart F do not apply to issues of prequalification, suspension or debarment.

---

SUBTITLE B

---

## Section 660.420 Filing of a Protest

- a) All protests shall be in writing and filed with the Chief Procurement Officer within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. Protests filed after the 7 calendar day period will not be considered. In addition, protests that raise issues of fraud, corruption or illegal acts affecting specifications, special provisions, supplemental specifications and plans must be received by the Chief Procurement Officer no later than 14 calendar days before the date set for opening of bids.
- b) The protest shall be contained in an envelope clearly labeled "Protest." The written protest shall include as a minimum the following requirements.
  - 1) The name, address, telephone and facsimile numbers of the protester.
  - 2) The identification of the procurement or solicitation that is the subject of the protest.
  - 3) All information establishing that the protester is an interested party.
  - 4) A detailed statement of the factual and legal grounds of the protest, including all relevant documents and exhibits that demonstrate fraud, corruption or illegal acts having the effect of undermining the integrity of the procurement process.
  - 5) All information establishing the timeliness of the protest.
  - 6) The signature of the protester.

---

SUBTITLE B

## Section 660.430 Stay of Action during Protest

When a protest has been timely filed and before an award has been made, the Department will make no award of the contract until the protest has been resolved, unless the award of the contract without delay is necessary to protect the interests of the State. When a protest has been filed after an award has been made, the protest will be denied.

---

SUBTITLE B

## Section 660.440 Decision

- a) A decision on a protest will be made as expeditiously as possible after receiving all relevant information.
- b) The protest will be sustained only if it is determined by the Chief Procurement Officer that the protest conclusively demonstrates by the preponderance of relevant information submitted that fraud, corruption or illegal acts have occurred that undermine the integrity of the procurement process.
- c) If the protest is sustained, the remedies available are limited to cancellation or revision of the solicitation, or readvertisement of the solicitation. Relief available does not include award of the contract to the protester.
- d) The decision of the Chief Procurement Officer is final and conclusive unless clearly erroneous, arbitrary, capricious or contrary to law. (See Section 20-75 of the Code.) A copy of the decision of the Chief Procurement Officer will be transmitted to the protester within 14 days after the decision is entered.

---

SUBTITLE B

SUBPART G: SPECIFICATIONS

Section 660.450 Standard Specifications

All Department construction contracts will identify the version of the Standard Specifications, applicable to the type of work involved, used by the Department Division undertaking the project.



---

SUBTITLE B

## Section 660.460 Contract Documents

For construction contracts, the specifications, supplemental specifications, special provisions and plans will provide the requirements for the categories of work and materials needed for the contract. For all other contracts involving the procurement of supplies, the specifications will be incorporated in the appropriate contract documents.

---

SUBTITLE B

---

## Section 660.470 Specification Standards

- a) Material and product specifications for construction contracts and construction-related service contracts that may require the delivery of material or products will be used that satisfy the needs of the Department and that are developed in accordance with the following standards.
  - 1) Material and product specifications will reflect the needs of the Department and will describe the technical or performance requirements necessary to complete the contemplated work.
  - 2) Brand-name only product specifications, including patented or proprietary products, will not be used, unless:
    - A) such products may be procured competitively with equally suitable nonbrand-name products; or
    - B) such products are necessary for compatibility with existing facilities; or
    - C) no equally suitable alternate exists; or
    - D) such products are to be used for research or for a distinctive type of application for experimental purposes.
  - 3) When more than one product will fulfill the requirements for an item of work and the products are judged by the Department to be of satisfactory quality, and equally acceptable on the basis of engineering analysis and estimated price, the contract specifications may contain or include by reference a qualified products list.
- b) For nonconstruction and nonconstruction-related services contracts, the Department adopts the standards for specifications established by the Department of Central Management Services.

---

SUBTITLE B

## SUBPART H: SUSPENSION OF CONTRACTORS

## Section 660.480 Purpose

The purpose of this Subpart H is to establish the standards and procedures governing the administrative action of suspension that may be taken by the Department to safeguard the public interest in the solicitation, execution, administration and performance of public contracts. This Subpart applies to all suspension administrative actions taken by the Department regarding any contractor that has participated, is currently participating or may be expected to participate in any Department contract.

---

SUBTITLE B

## Section 660.490 Definitions

As used in this Subpart:

- a) "Affiliates" means firms where one controls or has the power to control another, or a third party or parties controls or has the power to control both.
- b) "Contract" means, in addition to the meaning set forth at Section 660.40, a written agreement between a contractor and the Department, or an agreement subject to Department approval, regardless of form or method of procurement.
- c) "Contractor" means any person, firm, corporation, organization, partnership, or association, however organized, and its affiliates, including its owners, directors, officers, partners, managers, key employees and others engaged in primary managerial or supervisory positions.
- d) "Hearing Officer" means the Secretary or an attorney, licensed to practice law in this State, appointed by the Secretary.
- e) "Participation" means to enter into or attempt to enter into a contract awarded or approved by the Department, irrespective of the method of procurement, or any subcontract, material supply agreement or equipment lease transaction in connection with any such contract.
- f) "Indictment" means the charge, information, or other filing by a competent authority charging a criminal offense.
- g) "Secretary" means the Secretary of Transportation.

---

SUBTITLE B

## Section 660.500 Policy

In order to protect the public interest in the solicitation, execution and performance of contracts administered by the Department, it is the policy of the Department to conduct business only with contractors of responsible business integrity and honesty. Suspension is a discretionary action imposed in accordance with this Part to serve the public interest and to implement this policy. It may be imposed only for the causes and in accordance with the procedures set forth in this Subpart.

---

SUBTITLE B

## Section 660.510 General

The Secretary may suspend a contractor from participation on any contract awarded by or requiring approval or concurrence of the Department upon a determination by the Secretary based upon adequate evidence that the contractor has engaged in conduct proscribed by Section 660.520 of this Subpart. This determination may be predicated on evidence developed by means of an investigation conducted by the Department and the record of any hearing requested and conducted pursuant to this Subpart; by review of the public record containing a criminal conviction, a civil judgment, or an admission under oath of conduct evidencing proscribed conduct including a plea of nolo contendere; or the findings and decisions made in accordance with law by another public agency that the contractor has engaged in conduct proscribed by Section 660.520 of this Subpart.

---

SUBTITLE B

---

## Section 660.520 Causes for Suspension

A contractor may be suspended from participation due to acts or omissions that indicate that the contractor lacks integrity and honesty in the conduct of business or the performance of contracts. Acts or omissions that indicate the lack of business integrity and honesty include but are not limited to:

- a) fraud, bribery, embezzlement, theft, collusion, conspiracy, anti-competitive activity or other misconduct and offenses prohibited by law whether or not any such misconduct or offense is in connection with a Department contract or any contract requiring Department approval;
- b) making a material false statement in an application for prequalification or any forms or affidavits required as part of a prequalification process;
- c) materially violating any rule or procurement procedure or making a material false statement in connection with any rules or procurement procedures of the Department;
- d) making a material false statement, representation, claim or report respecting the character, quality, quantity, or cost of any work performed or materials furnished in connection with a contract administered or supervised by the Department;
- e) doing business with a suspended contractor in connection with a contract of the Department or subject to approval of the Department during the period of suspension; or
- f) being debarred or suspended by another agency of this State or the United States.

---

SUBTITLE B

---

## Section 660.530 Interim Suspension

The Secretary may immediately suspend a contractor prior to and during the pendency of a hearing provided by this Subpart if the Secretary finds that the facts and circumstances upon which the suspension cause is predicated are of such a nature as to require immediate action to safeguard the public interest in the solicitation, execution, administration or performance of contracts, whether awarded by the Department or subject to Department approval. An interim suspension may be imposed pending the completion of an investigation of the causes for suspension. Indictment upon charges evidencing a cause for suspension is a basis for an interim suspension. An interim suspension is effective immediately and will continue for a period of time established by the Secretary of up to 120 days unless terminated sooner by the Secretary. The Secretary may extend the duration of an interim suspension beyond 120 days in order to allow for completion of a hearing that was scheduled for commencement during the original 120 day interim suspension period. In cases involving interim suspension based upon indictment, the interim suspension may be imposed for a period of up to one year or until conclusion of the legal proceeding.



---

SUBTITLE B

Section 660.540 Voluntary Exclusion

A contractor may accept a status of nonparticipation or limited participation in Department contracts pursuant to the terms of an administrative settlement.

---

SUBTITLE B

## Section 660.550 Term of Suspension

Except as herein provided, the term of a suspension imposed by the Secretary will be for a period, commensurate with the seriousness of the cause or causes, of up to five years. In cases involving the inadvertent or accidental failure to make the full disclosures required by Section 50-35 of the Code, the term of suspension will be for a period of no more than two years. (See Section 50-35(f) of the Code.) In cases involving the intentional, willful, or material failure to make the full disclosures required by Section 50-35 of the Code, the term of suspension will be for a period of not more than ten years with eligibility for reinstatement after two years. (See Section 50-35(g) of the Code.)

---

SUBTITLE B

## Section 660.560 Coverage

- a) A suspension and interim suspension applies to the contractor set forth in the notice of suspension.
- b) If the contractor named in the notice of suspension is a person, the suspension also applies to any other contractor:
  - 1) in which the suspended person is an officer, director, manager or in any other substantial management or supervisory position, until such time as the person is severed from such contractor; or
  - 2) in which the suspended person has controlling legal or beneficial financial interest, until such time as the suspended person's interests are divested.
- c) In addition to all covered entities and affiliates, the suspension also applies to any entity or affiliate that is formed or organized subsequent to the date a suspension action was entered.
- d) Any suspended contractor, for the term of such suspension, is ineligible to participate as a contractor, subcontractor, material supplier or lessor of equipment on or in connection with contracts awarded or approved by the Department.

---

SUBTITLE B

Section 660.570 Other Agency Suspensions

Suspension under this Subpart H may be concurrent with or consecutive to any other suspension or debarment imposed by another public agency.

---

SUBTITLE B

Section 660.580 Responsibility

Suspension under this Subpart H will also be deemed a finding of lack of responsibility.

---

SUBTITLE B

## Section 660.590 Continuation of Executory Contracts

Suspension or voluntary exclusion pursuant to this Subpart H shall not relieve a contractor or its surety of any obligation to be performed in accordance with the terms of any executory contract or bond that remains in full force and effect. Executory contracts are voidable by the Department without penalty or further payment, except payment for completed and accepted work, if the facts and circumstances giving rise to the suspension are of such a nature as to require action to safeguard the public interest.

---

SUBTITLE B

## Section 660.600 Exception Provision

A suspension action is final, except that the period of time during which a contractor is suspended may be decreased, delayed or rescinded at any time, if, in the judgment of the Secretary, the public interest warrants such action. The Secretary may grant an exception permitting a suspended or voluntarily excluded contractor to participate in a particular contract or type of contracts if the public interest will be served by the participation. A contractor suspended for the intentional, willful, or material failure to make the disclosures required by Section 50-35 of the Code is not eligible for exception or reinstatement until two years of the suspension shall have passed. (See Section 50-35(g) of the Code.)

---

SUBTITLE B

## Section 660.610 Notice of Suspension

- a) Any contractor that the Department proposes to suspend pursuant to this Part will be furnished written notice by personal service or by certified or registered mail.
- b) The notice will include the following:
  - 1) The cause for suspension on which the proposed suspension is based.
  - 2) A clear and concise statement of the matters asserted and acts complained of, and the statutes, cause or rules upon which the allegations in the notice are based.
  - 3) The legal authority and jurisdiction under which the action is taken, and the consequences of a failure to respond.
- c) A notice may be amended at any time.
- d) If the Secretary has imposed an interim suspension, the notice will so indicate, will provide the reasons for the interim suspension, will state the interim period, and will state whether the interim suspension is pending completion of an investigation, an ensuing legal proceeding or a hearing provided according to this Subpart H.
- e) Except in cases of interim suspensions imposed by reason of indictment, the notice will set forth the right to request a hearing.



---

SUBTITLE B

## Section 660.620 Response and Request for Hearing

- a) Any contractor receiving a notice of suspension may, within 30 days after receipt of a notice, file an appearance and request for a hearing. A contractor that does not file an appearance and request a hearing within the 30 days after receipt shall be deemed to have waived any hearing and will be subject to immediate suspension.
- b) Within 30 days after receipt of a notice which imposes an interim suspension, the contractor may submit, in person, in writing, or through a representative, information, documentation and argument in opposition to the interim suspension. The Secretary will consider the contractor's submission in light of the evidence developed in the pending investigation, and may modify or terminate the suspension or may leave it in force. The Secretary's decision concerning imposition of an interim suspension is final without further hearing.

---

SUBTITLE B

## Section 660.630 Hearing Date and Hearing Officer

- a) Upon receipt of an appearance and request for hearing, the Secretary will set the matter for a hearing within 30 days, and notify the contractor of the place, time and date of the hearing and the designated Hearing Officer.
- b) The contractor may file a written motion for disqualification of a Hearing Officer, setting forth reasons of personal bias or conflict of interest, within three days after appointment of the Hearing Officer.

---

SUBTITLE B

## Section 660.640 Answer

The contractor may file a written answer to a notice not later than twenty days prior to the hearing date, but shall not be required to file an answer. The answer may include affirmative defenses.

---

SUBTITLE B

## Section 660.650 Form of Documents

- a) Documents shall clearly show the file hearing number and the title of the proceedings in connection with which they are filed.
- b) Except as otherwise provided, two copies of all documents shall be filed.
- c) Documents shall be typewritten or reproduced from typewritten copy on letter size white paper.
- d) Each document filed shall be signed by the party or by his authorized representative or attorney.

---

SUBTITLE B

## Section 660.660 Computation of Time

- a) Computation of any period of time prescribed by this Subpart H begins with the first business day following the day on which the act, event or development initiating such period of time occurs, and runs until the end of the last day, or the next following business day if the last day is a Saturday, Sunday, or legal holiday. When the period of time is five days or less, Saturdays, Sundays and legal holidays are excluded in the computation of time.
- b) Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received.

---

SUBTITLE B

## Section 660.670 Appearances

- a) Any person participating in proceedings may appear as follows:
  - 1) A person may appear in his/her own behalf or by an attorney at law licensed to practice in the State of Illinois, or both.
  - 2) A business, nonprofit, or government organization may appear by any bona fide officer, employee, or representative, or may be represented by an attorney licensed to practice in the State of Illinois, or both.
- b) Attorneys not licensed to practice in the State of Illinois may appear on motion.
- c) An attorney appearing in a representative capacity shall file a written notice of appearance.

---

SUBTITLE B

---

## Section 660.680 Hearing Procedures

- a) The Hearing Officer has the authority to conduct and preside over the hearing, to take all necessary action to avoid delay, to maintain order, to ensure compliance with all notice requirements and to ensure the development of a clear and complete record. The Hearing Officer shall have all powers necessary to conduct a fair and impartial hearing including, but not limited to, the power to:
  - 1) Administer oaths and affirmations;
  - 2) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, and in general conduct the proceedings, according to recognized principles of administrative law and the provisions of this Part;
  - 3) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
  - 4) Rule upon all motions and offers of proof and receive relevant, material evidence admissible under the rules of evidence applied in civil cases in the circuit courts of the State, including evidence not admissible under those rules, but that is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs;
  - 5) Direct parties to appear and confer for the simplification of issues, or presentation of evidence that may be received in written form without prejudice to the parties, and otherwise conduct pre-hearing conferences;
  - 6) Dispose of procedural requests or similar matters;
  - 7) Issue orders relating to pre-hearing discovery to the extent authorized by and permitted under this Part; and
  - 8) Enter any order that further carries out the purpose of this Part.
- b) The Hearing Officer has the authority to extend the date of any hearing, provided that the Hearing Officer may condition the granting of a contractor's request for an extension on the imposition or extension of an interim suspension should the circumstances warrant such action.
- c) Any party to the hearing shall have the right to direct any other party to produce for inspection, copying, reproduction or photocopying written documents relevant

---

SUBTITLE B

to the subject matter of the hearing. Such request for documents shall be in writing and served on the party from whom production of documents is sought. A copy of the request shall be sent to the Hearing Officer and shall become part of the record of the case. The request shall specify a reasonable time, place and manner of making the inspection and copying.

- d) The parties shall be afforded the opportunity to present, examine and cross-examine witnesses.
- e) In cases where it has been established by admission or conviction or judgment of a court of competent jurisdiction that the contractor has engaged in conduct warranting a suspension or where it has been established by findings made in accordance with law by another public agency that the contractor has engaged in conduct warranting a suspension, the sole issue before the Hearing Officer shall be the receipt of evidence as to the appropriate length of a suspension. In such cases the Hearing Officer shall not receive evidence relating to the merits of the prior judicial or administrative decision or findings.
- f) The Hearing Officer shall make a report containing findings of fact and conclusions of law, and shall transmit the entire record, including such findings and conclusions, to the Secretary for review and final decision. If the Secretary will not review the record prior to rendering a decision, the Hearing Officer will serve upon the parties a proposed decision to which the parties may file a brief containing exceptions.
- g) Testimony at the hearing shall be recorded either by a certified court reporter or a mechanical recording device, but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested. The transcript and the record offered in connection with the hearing shall constitute the official record.
- h) The record shall include:
  - 1) All pleadings, motions, and rulings;
  - 2) Evidence received;
  - 3) A statement of matters officially noticed;
  - 4) Offers of proof, objections and rulings thereon;



SUBTITLE B

- 5) Any proposed findings and exceptions to the report of the Hearing Officer, and the decision.

---

SUBTITLE B

## Section 660.690 Determination

- a) Based on the record as a whole and an adequate evidence standard of proof, the Secretary will determine the suspension action to be taken.
- b) In assessing adequate evidence, consideration will be given to how much credible information is available, its reasonableness in view of surrounding circumstances, corroboration or lack thereof as to important allegations, and inferences that may be drawn from the existence or absence of affirmative facts. This assessment will include an examination of basic documents such as contracts, inspection reports, and correspondence.
- c) Upon reaching a final decision, the Secretary will notify the contractor of the determination and will set forth the period of time during which the contractor shall be suspended from bidding on Department contracts or contracts requiring Department approval or concurrence. Affected local government agencies will be notified of the final decision. Any interim suspension shall be deducted from the period of final suspension.
- d) Parties will be served with a copy of the final decision by mail, postage prepaid, certified, or registered, addressed to the last known address of the person, partnership, association, or company involved. A copy of the final decision will be mailed to each party and to all attorneys of record.

---

SUBTITLE B

## SUBPART I: MISCELLANEOUS

## Section 660.700 Property Rights

Receipt of an Invitation for Bids, Request for Proposals or other procurement document, or submission of any response thereto or other offer confers no right to receive an award or contract, nor does it obligate the State in any manner. All procurement documents submitted by a bidder or offeror become the property of the Department for disposition in accordance with the requirements of law. Trade secrets or other proprietary information submitted to the Department shall be expressly identified in writing; however, the Department reserves the right to determine the validity of any such claim, and may refuse to award a contract or may void any contract in circumstances where the party claiming the trade secret or proprietary data is unable to agree to disclosure for a public purpose. (See Section 1-25 of the Code.)

---

SUBTITLE B

## Section 660.710 Federal Requirements

Procedures applicable to procurements that contemplate the use of federal-aid funds, grants or loans shall be in accordance with requirements established by the federal administration having responsibility therefor, even if in addition to or in contravention of this Part. (See Section 20-85 of the Code.)

---

SUBTITLE B

## Section 660.720 Intergovernmental Agreements

Any procurement conducted by the Department on behalf of another government entity pursuant to an intergovernmental agreement shall be conducted using the procedures of this Part in accordance with the applicability provisions of the Code. (See Section 1-10(b) of the Code.)

---

SUBTITLE B

Section 660.730 No Waiver of Sovereign Immunity

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

---

SUBTITLE B

## Section 660.740 Written Determinations

The Chief Procurement Officer will prescribe any administrative methods and operational procedures to be used in preparing written determinations required to be made by the Department by the Code or this Part, and will make such delegations to responsible officers for the implementation of the methods and procedures as will achieve the proper preparation, execution and retention of each written determination.

---

SUBTITLE B

## Section 660.750 Severability

If any provision or application of this Part is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.